

### **REMARKS/ARGUMENTS**

**This paper includes a further copy of the Change of Address submitted by the applicant on December 22, 2004 that appears in the IFW but the change has not been entered into the electronic record of the application.**

**This amendment includes a Petition to extend the term for response by three months to September 27, 2006.**

#### **Status of the Application:**

##### **Disposition of the Claims:**

Claims 1 to 58 are presented for examination. Claims 1 56 and 58 are rejected under 35 USC 101 as being directed to non-statutory subject matter. Claims 1 to 57 are rejected under 35 USC 112, second paragraph as being indefinite. Claims 1 to 58 are rejected under 35 USC 102(b) as being anticipated by Haridas et al. No claim is allowed and no claim is indicated as reciting allowable subject matter.

##### **Status of the Detailed Description and Abstract:**

No objection is made to the Detailed Description or the Abstract.

##### **Status of the Drawings:**

No objection is made to the drawings filed 11/19/2001.

##### **Status of the Priority Claim:**

The examiner has acknowledged receipt of a certified copy of FR 00 15691 filed December 4, 2000 in support of the priority claim under 35 USC 19(a)-(d).

##### **Status of the Information Disclosure Statement:**

The Examiner has acknowledged the Information Disclosure Statement filed 11/19/2001.

#### **Rejection of Claims 1 to 56 and 58 under 35 USC 101**

Claim 1 has been canceled and new independent method claim 59 is presented herewith. New claim 59 is believed to recite the method in positive steps that produces a useful and concrete and tangible result in accordance with the statute.

Claim 58 has been canceled and new claims 60 to 63 presented herewith. New claims 60 to 63 are believed to recite the computer program, the computer program product, an article of manufacture and a program storage device in accordance with the statute.

The withdrawal of the rejection of Claims 2 to 56 is requested in view of new claims 59 to 63.

**Rejection of Claim 1 to 57 under 35 USC 112, second paragraph**

Claim 1 has been canceled and new independent method claim 59 is presented herewith. New claim 59 is believed to be definite and recites the method in positive steps that produces a useful and concrete and tangible result in accordance with the statute. Claims 2 and 56 have been amended to be dependent on claim 58. Claim 57 has been amended to recite means for display.

The withdrawal of the rejection of Claims 2 to 56 is requested in view of new claim 59 and the amendment to claims 2 and 56.

**Rejection of Claims 1 to 58 under 35 USC 102(b)**

Claims 1 to 58, all the claims in the application as filed, are rejected as being anticipated by Haradis et al. The applicant respectfully traverses the rejection under 35 USC 102(b) of claims 1 to 58 for the following reasons.

The applicant believes that the following observations regarding a rejection under 35 USC 102(b) would be helpful in the further examination of the claims as amended.

“[T]he dispositive question regarding anticipation [I]s whether one skilled in the art would reasonably understand or infer from the [prior art reference’s] teaching that every claim element was disclosed in that single reference. In re Baxtor Travenol Labs, Inc., 952 F2d 388, 390, 21 USPQ2d 1281, 1284 (Fed. Cir. 1991); see also Schumer v. Lab. Computer Sys., Inc. 308 F2d 1304, 1315, 64 USPQ2d 1832, 1841 (Fed. Cir. 2002).

“”To serve as an anticipation when the reference is silent about an asserted inherent characteristic, such a gap in the reference may be filled with recourse to extrinsic evidence {; however, s] uch evidence must make clear that the missing descriptive

subject matter is necessarily present in the thing described in the reference”. Cont’l Can Co USA v. Monsanto Co., 948 F2d 1264, 1268, 20 USPQ2s 1746, 1749 (Fed.Cir. 1991) cited with approval in Dayco Products, Inc., Total Confinement, Inc. 329 F.3d 1358, 66 USPQ 2d 1801 (CAFC, May 23, 2003).

According to the Examiner, Haridas et al. is alleged to disclose that the development process of an angioplasty catheter can be enhanced using finite element simulation. Haridas et al. is also alleged to disclose that the simulation can use the 3D geometry of a stenosis using imaging and X-ray data, plaque material properties and hyperelastic properties of the artery. Haridas et al. is also alleged to disclose a simulated image of as stenosis in which a balloon catheter is introduced, a simulated image of a stenosis after the inflation of the ballon catheter, and a simulated image of the inflated balloon catheter (Figs. 8 to 10). Haridas et al. is also alleged to disclose that the simulation also can take into account the presence of a metallic stent. Haridas et al. is also alleged to disclose the use of the finite element technique to simulate the expansion of a balloon catheter or a stent in a lesion.

The applicant notes that the images and the parameters shown by Haridas et al. are useful in the development process but would not be useful to provide an operator to consider the *interaction or involvement between the prosthesis and the lesion*. Haridas et al. does not explicitly or implicitly disclose, for example, superimposing two three-dimensional simulated images to visualize the *interaction or involvement between the prosthesis and the lesion* after the expansion of the prosthesis. There is no teaching in Haridas et al. of the problem to be solved according to the amended claims, i.e., predicting the result of an endovascular prosthesis procedure and seeking a method to provide the operator in choosing an endovascular prosthesis or a deployment technique. It is submitted that the Examiner is basing the rejection on speculation of the teaching of Haridas et al. or at best together with a hindsight analysis.

Claim 1 has been canceled and new claim 59 is presented herewith. Claim 59 positively recites the method to include “superimposing the deployed three-dimensional image of the prosthesis and the three-dimensional image of the lesion to provide a

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combined three-dimensional image to visualize the interaction or involvement between the lesion and the deployed prosthesis.”

Claims 2 to 56, each dependent on claim 59, are considered patentable for the same reasons as claim 59.

The applicant respectfully requests that a timely Notice of Allowance be mailed in this application.

Respectfully submitted,

SUREDA ET AL.

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